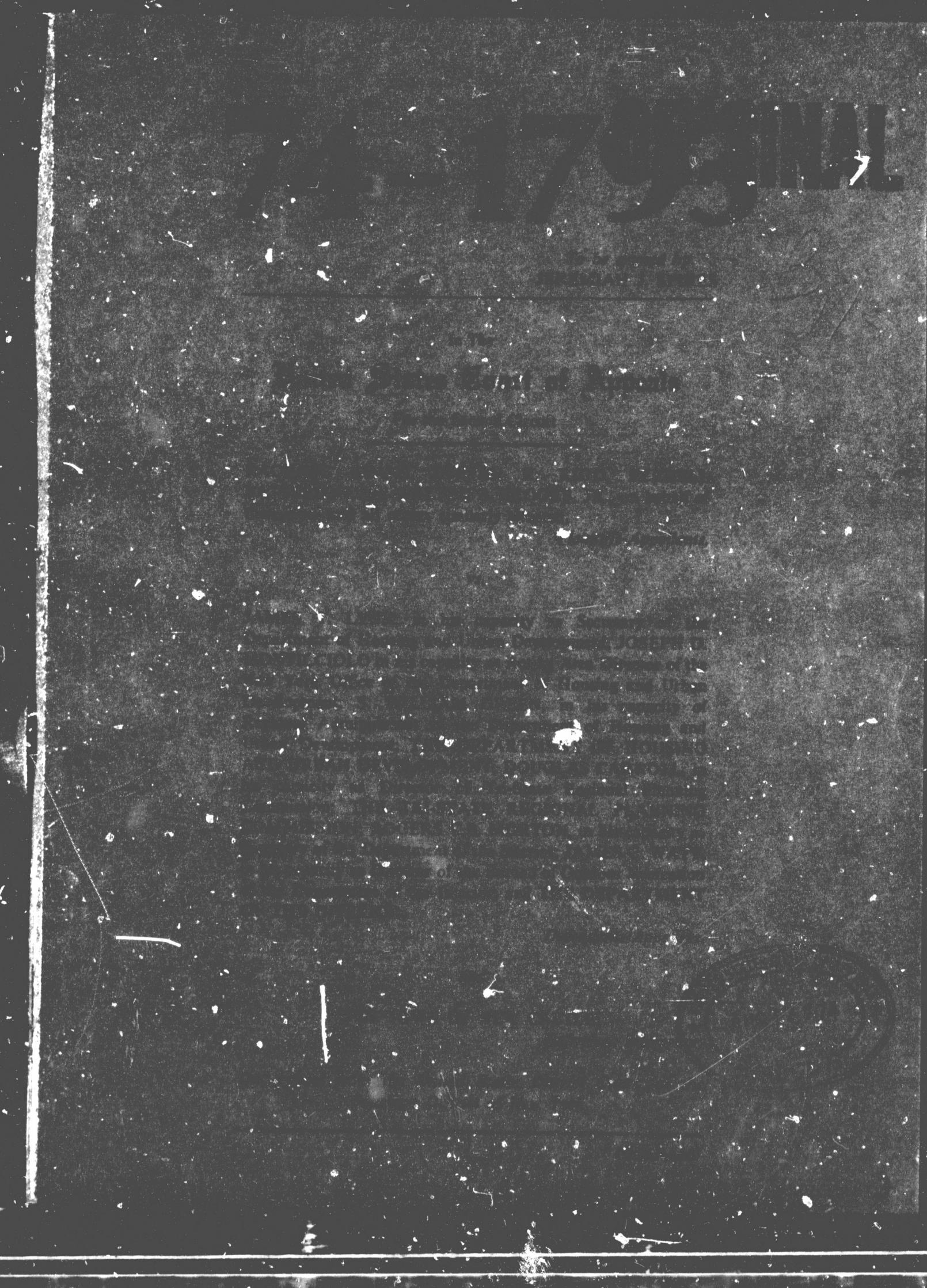


*United States Court of Appeals
for the Second Circuit*



APPELLEE'S BRIEF



**BRIEF AND APPENDIX FOR APPELLEES, DOUGLAS
CARROLL IN HIS CAPACITY AS DIRECTOR OF TRI-
STATE REGIONAL PLANNING COMMISSION AND TRI-
STATE REGIONAL PLANNING COMMISSION.**

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IN THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

NO. 74-1793

RACHEL EVANS, et al.,

Appellants,

-against-

JAMES T. LYNN, et al.,

Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

BRIEF FOR APPELLEES DOUGLAS CARROLL
IN HIS CAPACITY AS DIRECTOR OF TRI-
STATE REGIONAL PLANNING COMMISSION
AND TRI-STATE REGIONAL PLANNING
COMMISSION

STATEMENT OF THE CASE

This appeal presents the question whether appellants have standing to challenge two federal grants to the Town of New Castle, Westchester County, New York, as a means of attacking the Town's zoning regulations.

The complaint alleged that "New Castle denies minority citizens Federal benefits by using its zoning regulations and land use practices to exclude blacks and other minorities and persons of low and moderate income from its borders." (1a,2a)*

One of the grants concerned the Town's acquisition, for park purposes, of a 35 acre (approx.) swamp which remained after the development of the surrounding higher land. (TA,11).** The other project concerned a sanitary sewer system in the hamlet of Chappaqua, within the Town, in a one square mile area zoned basically for 1/4 and 1/2 acre residences, which contained many residences on smaller lots and which also contained multi-family housing. The area had a very small percentage of vacant land for development and had been served only by individual septic tanks, fields and cesspools. (TA,4,5).

Plaintiffs are Black residents of the towns of Peekskill and Ossining and the cities of Yonkers and White Plains; all within Westchester County.

Defendants comprise: the Secretary of the Department of Housing and Urban Development ("HUD"); the Regional Administrator for Region II, HUD; the Acting Area Director of New York Office, HUD; The Secretary of the Department of Interior ("Interior"); the Director of the Bureau of Outdoor Recreation, ("BOR"), Interior; Tri-State Regional Planning Commission

*References with an "a" suffix are to the Joint Appendix.
** "TA" references are to the materials appended hereto.

("Tri-State") and the Director of Tri-State.

Plaintiffs alleged that HUD by approving the grant for the sewer district failed to affirmatively promote fair and suitable housing pursuant to 42 USC §3608(d)(5), which requires it to administer programs and activities relating to housing and urban development in a manner affirmatively to further the policies of Subchapter I, Chapter 45, Title 42, which prohibits discrimination in the sale, rental or financing of housing because of race, color, religion or national origin.

Plaintiffs further alleged that HUD violated 42 USC §§2000(d), 1981, 1982 and 1985 and the Fifth Amendment to the United States Constitution on the ground that the grants assisted and encouraged the Town in its alleged practice of racial discrimination and had the effect of denying members of plaintiffs' class their right to participate in the receipt of federal benefits. 42 USC §2000(d), supra, prohibits exclusion from participation in, denial of benefits of, or discrimination under federally assisted programs on the ground of race, color or national origin. 42 USC §§ 1981, 1982 and 1985 confirm the rights of all persons in the United States to the full and equal benefit of all laws and proceedings and the rights of all citizens to enjoy the same rights as white citizens to acquire, hold and sell property; and provide an action for damages for

injuries to person or property, or deprivation of any right or privilege of a citizen of the United States, through acts in furtherance of the object of a conspiracy. The same provisions were alleged to have been violated by Interior on the same grounds.

Plaintiffs alleged that defendant Tri-State failed to properly review the two Town applications in violation of 42 USC §3334 and Office of Management and Budget Circular A-95. Section 42 USC §3334 requires, inter alia, that applications for Federal loans or grants for described projects, and planning and construction of described facilities, within any metropolitan area be submitted for review to any areawide agency designated to perform metropolitan or regional planning. It was also alleged that Tri-State thereby violated 42 USC §2000(d) supra. HUD and Interior were alleged to have violated 42 USC §3334, supra, by approving the grants in question in the face of Tri-State's alleged failure to review the Town's applications.

The plaintiffs received copies of administrative records concerning the grants and took depositions of officials of the Federal defendants. Defendant Tri-State was served with, and duly answered, sixty written interrogatories. Subsequently, the intervenor, the Town, deposed plaintiff Rachel Evans. Thereafter, the attorneys for the plaintiffs

and for the intervenor entered into a stipulation that:

1. Each plaintiff, if asked whether he has looked for housing in the Town would answer, "No".
2. Each plaintiff, if asked whether he or any political subdivision in which he resides applied for or was deprived of the grants to the Town and to the District would answer, "No".
3. Plaintiffs have no information to believe that the Town will refuse to admit any non-residents to the proposed park for any reason, including race, creed, color, or income.
4. Plaintiffs do not claim that any resident of the District will be denied the use and benefit of its sewer system on the basis of race, creed, color or income.
5. Plaintiffs do not claim that Turner Swamp at any time has been utilized for low and moderate income multi-family housing.

On May 22, 1974, the district court dismissed the complaint pursuant to Rule 12(b)(1) F.R. Civ.P. on the jurisdictional ground that the plaintiffs lacked standing to bring the suit.

STATEMENT OF FACTS

Tri-State Regional Planning Commission

Tri-State Regional Planning Commission ("Tri-State") is an interstate body, both corporate and politic, serving as a common agency of the States of Connecticut, New Jersey and New York. Tri-State is composed of members representing the party states, the City of New York and the Federal Government. It was created in 1965 as the Tri-State Transportation Commission by interstate compact (the "Compact") (Conn. Public Acts, 1965, P.A. 41; Laws of N. J., 1965, c.12; Laws of N.Y. 1965, c.413). The Compact was amended in 1972 to expand Tri-State's role to embrace responsibility for comprehensive planning for the compact region (Conn. Public Acts, 1971, P.A. 450; Laws of N.J. 1971, c.161; Laws of N.Y., 1971, c.333). The Compact defines the compact region as including named counties in the States of New York and New Jersey and named planning regions in the State of Connecticut. (Id. Art.V, §1(d)). The New York counties named are those within the city of New York, Long Island and the following: Rockland, Orange, Dutchess, Putnam and Westchester. (Ibid.)

Congress gave its consent to such agreements or compacts between two or more States for cooperative effort and material assistance in comprehensive planning for interstate, metropolitan and other urban areas, and the establish-

ment of agencies for making effective such agreements and compacts, in sub-section 701(f) of the Federal Housing Act of 1954. (68 Stat. 640, 40 U.S.C. §461(f)).

In enacting the Compact legislation, the State of New York specifically provided against diminution of planning and zoning powers held by other political entities (Laws of New York, 1965, c.413, §3):

"It is not the intent of this act nor shall it be construed to restrict or diminish any powers heretofore or hereafter conferred by law upon any political subdivision of the state or any governmental agency, inter-state, state or local, including, without limitation, powers relating to planning and zoning."

Connecticut enacted the same provision (Conn. Public Acts, 1965, P.A. 291, §3).

Clearinghouse Function

All applications for Federal aid for specific Federal programs must be reviewed to assure conformance with the comprehensive plans of the Region. Applicants are required to notify the appropriate state and areawide clearinghouses of their intent to apply for Federal aid before developing detailed applications for Federal approval. Tri-State has been designated as the areawide clearinghouse for its region. (T.A.21)

King-Greeley Sewer District

By letter of July 30, 1971, the Town, on behalf of the District, gave Tri-State notice of its intent to apply for a Federal grant for a sewer project in the District (TA,2). The Town Supervisor stated that investigations by the Town Engineer and the Westchester County Department of Environmental Health Services revealed widespread failure of individual septic systems and consequent discharge of untreated effluent along and over public and private property and rights-of-way. The environmental impact was described as serious, incipient and self-evident. (Ibid) The District comprises an approximately one square mile area zoned for 1/4 acre and 1/2 acre housing, as well as business uses. Much of the housing was built on less than 1/4 acre lots prior to the enactment of the Town's Zoning Ordinance in 1930. (46a) The District contains some multi-family housing, including some two and three family houses and one building containing ten residential units. The district is densely populated. The majority of its houses are more than thirty years old. The majority of the residences are occupied by persons of lower and middle income, although there are some expensive residences. (Ibid) Construction of the sewer project was made very expensive by the hilly, rocky terrain, which

had also contributed to the inadequacy of the existing septic facilities because of the limited ability of such terrain to absorb wastes. Total cost of the project was estimated at \$2,100,000. In the absence of the proposed grant, each property owner would be compelled to pay approximately 25% more annually for the sewer facility. (47a)

Upon receipt of the letter of intent, Tri-State assigned it to a reviewer with responsibility for the functional category of Sewer Systems for a determination whether the proposed project was of regional or non-regional significance, i.e. whether the project should be reviewed by Tri-State personnel or by the county planning agency. (TA,15). Applying criteria for regional and non-regional projects, the reviewer concluded it was of non-regional significance.* Accordingly, the matter was referred to the Westchester County Department of Planning with directions to proceed with the appropriate review, obtain reviews from interested localities and then send a copy to the applicant with a copy to Tri-State. Westchester County Department of Planning submitted its evaluation of the proposed sewer by letter of December 28, 1971. The project was fully endorsed as one of the highest priority projects of its type in Westchester County.

*The criteria employed by Tri-State in making this determination are set forth in TA, 16-TA,20.

500-428

Turner Swamp

The notice of the proposed application by the town for a grant in respect of Turner Swamp was forwarded to Tri-State by letter of August 16, 1971. The area to be acquired was described as being of approximately 35 acres remaining after development of the surrounding higher land. The area contains a variety of swamp vegetation, nesting waterfowl and small mammals. It is used by migrating warblers and serves as a water retention basin. The proposal contemplated the acquisition of title to the site, raising the water level, development of trails, and the leasing of an old school building on adjoining land as a nature study center. (TA,11). Tri-State referred the matter to its reviewer in the functional category of Open Space & Recreation. The reviewer, applying criteria for regional and non-regional projects, found the proposed project to be "non-regional", i.e. review was to be conducted by the county planning agency. Tri-State, by letter of September 10, 1971 delegated review to Westchester County Department of Planning. The results of that review were presented to the town, and Tri-State, by a letter dated October 1, 1971. (TA,32) The project was found to be in accordance with the open space policy of the Town and the County.

Approval of the Grants

HUD contracted with the District for a \$358,000 grant in respect of the District's sanitary sewer system pursuant to 42 USC §3102, which authorizes grants for basic public water facilities and basic public sewer facilities other than treatment works. (18 ca)

Interior contracted with the Town for a grant for Turner Swamp, pursuant to 16 USC §460 (1)-8 for approximately half the price of the land. (18da).

POINT I

THE DISTRICT COURT CORRECTLY
FOUND THAT APPELLANTS DO NOT
HAVE THE REQUISITE STANDING

The Complaint, the Brief for Appellants and the Stipulation of April 5, 1974 make the following points quite clear:

- (a) Appellants' arguments are based on the assertion that the Town's zoning laws are unlawful;
- (b) Appellants have not sought housing in the Town; have not sustained any monetary injury by reason of the grants to the District and the Town; have no reason to believe that the benefits of the sewer system or the park will be denied to anyone on the basis of race, creed, color or income; and do not claim Turner Swamp has ever been utilized for low or moderate income housing.

It is manifest, therefore, that the appellants do not have standing to attack the grants in question. Warth v. Seldin, 495 F2d 1187 (2d Cir. 1974). Indeed the appellants' claim to standing in the instant action is demonstrably weaker than that considered by this Court in Warth, since some of the plaintiffs in that case had sought but failed to obtain housing in the town whose zoning laws they attacked (Id., at 1191). Additionally, the plaintiffs in

Warth were attempting to claim injury as persons who were excluded from the town by the zoning laws. In the instant case, appellants are not directly attacking the Town's zoning laws, but are instead attacking two federal grants because they object to its zoning laws. If the plaintiffs in Warth had succeeded in having the zoning laws they attacked struck down, they might arguably have benefited from resultant low income housing. The appellants in the instant case, however, cannot show even that speculative possibility since there is no reason to believe that a denial of the HUD and Interior grants would cause the Town to change its zoning laws. Appellants are obviously at least one giant step farther removed from the requisite standing than the plaintiffs in Warth.

In order for appellants to have standing, appellants must have "alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues ..." Baker v. Carr, 369 U.S. 186, 204 (1962); O'Shea v. Littleton, U.S. , 38 L.Ed.2d 674 (1974). Abstract injury is not enough. "It must be alleged that the plaintiff 'has sustained or is immediately in danger of sustaining some direct injury' as the result of the challenged statute or official conduct." O'Shea v. Littleton, supra. Standing cannot be grounded on assertions that take the

Court into "the area of speculation and conjecture." Ibid. Yet that is what appellants seek to do here, for they impliedly assert that if the HUD and Interior grants are struck down and if the Town thereafter changes its zoning laws and if appellants were able to construct housing on rezoned land (or if low and middle income housing were constructed in the Town by others) then plaintiffs might realize some benefit from this suit. Appellants have certainly not demonstrated that any such consequences would flow from a grant of the relief they request. The only foreseeable result of such a judgment would be the denial of funds to the District for a necessary sewer project and denial of funds to the Town for preservation of the wildlife and vegetation of Turner Swamp.

There is no doubt that appellants do not have the requisite personal stake and interest to establish standing in the context of this litigation. O'Shea v. Littleton, U.S. , 38 L.Ed 2d 674 (1974); Sierra Club v. Morton, 405 U.S. 727 (1972).

POINT II

APPELLANTS DO NOT HAVE STANDING
AGAINST TRI-STATE

Appellants' claim that they have "unique" standing against Tri-State, even though they have none with respect to the Federal defendants, is untenable. It is apparently asserted as an attempt to create error from a complete lack of substance. The purported distinction was not asserted before the District Court. Indeed it is abundantly clear that appellants' claim to standing against Tri-State is even weaker than their manifestly insufficient claim against the Federal defendants, since Tri-State did not make either grant and does not disburse funds pursuant to the grant. Tri-State's function with respect to grants is to review and comment on a proposed project, including comments as to whether the proposed project is consistent with the region's comprehensive planning. 42 USC §3334; TA, ²³⁻²⁵ ~~26-28~~. Its comments and recommendations are then sent to the applicant for the grant, which must submit with its formal application to the Federal agency a statement that it has considered such comments and recommendations. The formal application, the comments and suggestions and the applicant's statement are then reviewed by the Federal agency "for the sole purpose of assisting it in determining whether the application is

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in accordance with the provisions of Federal law which govern the making of the loans or grants." 42 USC §3334(b).

The provisions of 42 USC §3334 indicate that the primary task of Tri-State in the review process is a determination as to the "extent to which the project is consistent with comprehensive planning developed or in the process of development for the metropolitan area." Ibid. The appellants have not made any showing whatsoever that either project is inconsistent with comprehensive planning for the metropolitan area. Instead, they have focused their attack on the zoning laws of one Town. That attack is precluded by Warth v. Seldin, supra.

CONCLUSION

The order of the District Court should be affirmed in every respect.

Respectfully submitted,

WIKLER GOTTLIEB TAYLOR & HOWARD
By Douglas A. Carroll
A Member of the Firm
Attorneys for Appellees
Douglas Carroll in his Capacity
as Director of Tri-State Regional
Planning Commission and Tri-State
Regional Planning Commission.

HARRY A. GOTTLIEB

JEREMIAH J. SPIRES
Of Counsel

APPENDIX

SELECTED ATTACHMENTS FROM ANSWERS OF APPELLANT TRI-STATE TO WRITTEN INTERROGATORIES SERVED BY PLAINTIFFS

Tri-State Classification Sheet, with materials submitted to it concerning King-Greeley Sewer District	TA-1
Tri-State Classification Sheet, with materials submitted to it concerning Turner Swamp	TA-9
Tri-State Resolution No. 96, adopted 11/13/69	TA-13
Tri-State Resolution No. 125, adopted 11/19/70	TA-15
Tri-State Criteria for Defining Regional Projects	TA-16
Description of Federal Aid Project Review System	TA-21
Chart-Projects of Regional Significance	TA-26
Chart-Projects of Non-Regional Significance	TA-27
Letter from Tri-State to Westchester County Department of Planning concerning proposed sewer, 8/4/71.	TA-28
Letter from Westchester County Department of Planning to Town Engineer concerning proposed sewer, 12/28/71	TA-29
Letter from Tri-State to Westchester County Department of Planning concerning Turner Swamp, 9/10/71.	TA-31
Letter from Westchester County Department of Planning's Town Engineer concerning Turner Swamp, 10/1/71.	TA-32

TRI-STATE TRANSPORTATION COMMISSION
(METROPOLITAN CLEARINGHOUSE)

Attachment 7(b)

DATE RECEIVED 8/2
NYC REVIEW DUE 8/2 8/12
END OF REVIEW 9/2 MM

REGIONAL
NONREGIONAL

BUDGET: Total \$ _____ Federal \$ _____

FEDERAL FUNDING AGENCY _____

NAME OF APPLICANT TOWN OF NEW CASTLE

LOCATION Hamlet of Chappaqua, Westchester Co., N.Y.

FUNCTIONAL CATEGORY

- AIRPORT
- EDUCATION
- HIGHWAY
- HEALTH AND HOSPITAL
- HOUSING
- LAW ENFORCEMENT FACILITIES
- MASS TRANSIT
- OPEN SPACE & RECREATION
- SEWER SYSTEMS
- URBAN PLANNING ASSISTANCE-701
- WASTE TREATMENT WORKS
- WATER DEVELOPMENT AND LAND CONSERVATION
- WATER SUPPLY & DISTRIBUTION
- OTHER (Specify) _____

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R. DeTurk
R. Storseth
Central Files
State Clearinghouse

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County or RPA Westchester Co.
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 R. DeTurk
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 J. Mahoney
 D. Phraner
 R. Richmond w/mar
 D. Stone
 E. Sullivan
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 P. Lapp
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443 2107

11Y-262



TOWN HALL
410 KING STREET
CHAPPAQUA, N.Y. 10514

PHONE
L 8-4771

July 30, 1971

Tri-State Transportation Commission
100 Church Street
New York, N.Y. 10007

Re: King-Greeley Sewer District

Gentlemen:

The Town Board of the Town of New Castle has authorized this Letter of Intent to your department with respect to the captioned benefit sewer district.

In response to Attachment A, Circular No. A-95-Revised, we submit the following summary description of the captioned project.

1. The applicant is The Town of New Castle, a municipal corporation having its Town Hall at 200 South Greeley Avenue, Chappaqua, New York.
2. The project is situate wholly in the Hamlet of Chappaqua, Town of New Castle, County of Westchester, and State of New York, and more particularly shown and outlined on a sketch map attached hereto and made a part hereof, and designated Schedule A.
3. The project includes the design and construction of a sanitary sewer system to serve the area shown on Schedule A and described in detail in a certain report entitled ENGINEER'S MAP, PLAN AND REPORT FOR KING-GREELEY SEWER DISTRICT TOWN OF NEW CASTLE, prepared by Oscar R. Soyland, Professional Engineer and Town Engineer for the

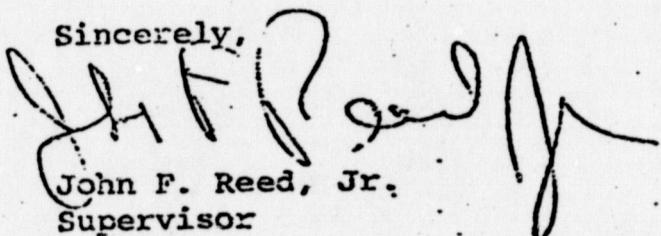
Tri-State Transportation Commission

July 30, 1971

3. Cont'd. Town of New Castle, which said report is attached hereto and made a part hereof and marked Schedule B.
4. The area shown in Schedule A and referred to in Schedule B is in immediate and compelling need of the proposed facility. Investigations by the Town Engineer and the Westchester County Department of Environmental Health Services reveal widespread failure of individual septic systems and consequent discharge of untreated effluent along and over public and private property and rights-of-way. The environmental impact is serious, incipient, and self-evident.
5. The application is proposed under Federal Assistance For Public Works And Facility Type Projects.
6. The application is prepared and will be submitted as soon as the project has clearinghouse approval.

The Town Board has asked that I include in this Letter of Intent a note of urgency and a request that clearinghouse review and approval be furnished as quickly as possible.

Sincerely,



John F. Reed, Jr.
Supervisor

RSA:ch

Attachments (2)

cc. Town Board

SCHEDULE B

ENGINEER'S MAP, PLAN AND REPORT FOR KING-GREELEY SEWER DISTRICT TOWN OF NEW CASTLE

The Town Board of New Castle, Westchester County, on its own motion, pursuant to the provision of Article 12A of the Town Law of the State of New York, initiated steps and created a sanitary sewer district to be known as the King-Greeley Sewer District. The Town Board caused to be prepared and filed with the Town Clerk, a preliminary plan and report for sewering the area and held informal meetings on the proposal. Interest in sewering the area was demonstrated by a compelling majority of property owners in the proposed districts.

The King-Greeley Sewer District area includes a hillside in the Hamlet of Chappaqua, in the Town of New Castle, County of Westchester, New York State, which area does not have public sewer facilities. The area to be serviced by the facility is basically zoned 1/2 acre and 1/4 acre residence with a relatively small area zoned business. Within the area is tax exempt property consisting of churches as well as private and parochial schools.

The area of the proposed district, as shown on the map attached hereto, is generally bounded as follows:
On the West by the Penn Central (Harlem Division Railroad)

on the North by an East-West line running from the intersection of Bedford Road (Route 117) several hundred feet North of Orchard Ridge Road intersection to the North end of Crossway Road on the East by Bedford Road (also known as Route 117) excluding properties fronting on the West side of Bedford Road and on the South by the Town of Mount Pleasant - Town of New Castle town line.

As aforesaid, the characteristic use of the buildings in the area are single family residence, some multiple residences, nurseries, schools, religious structures, several small professional type businesses and commercial stores and businesses.

There is relatively a very small percentage of vacant lands for development, the area being mostly improved with residences 30, 40, 50 years and older. The residences are erected on plots of small areas. The only means of sewage disposal at the present time is individual septic tanks, fields and cesspools. These facilities, in general, show clear signs of being overworked and numerous failures are evident. These failures and overworking of the individual sewage disposal systems result in an unsatisfactory, unsanitary and unhealthy condition. The major problem being the lack of vacant lands on a building lot to provide for new and expanded septic systems. The poor properties of the soil to absorb sewerage effluent, under-

lying hard pan and rock make for frequent and costly maintenance and repairs to the individual systems.

The area to be served is in most part hilly with the majority of streets running parallel to the slope.

The area is sloped generally from the Penn Central Railroad to Bedford Road (a/k/a Route 117). The district area comprises five basic drainage areas. The proposed design provides for a gravity flow system for the entire area to be serviced.

The sewerage effluent will be transmitted to the Westchester County Saw Mill Sanitary Sewer System located parallel to the Penn Central Railroad and the Saw Mill River Parkway. The sewage then flows through the Westchester County Trunk Lines to the Westchester County Sewage Treatment Plant at the Hudson River in Yonkers. The Westchester County Trunk Sewers and Plant have been designed and installed to accept this additional increase of sewage effluent.

The design criteria factors of the proposed sewer system will conform to the "recommended standards for sewage works", as adopted by the Great Lakes - Upper Mississippi River Board of State Sanitary Engineers May 10, 1960 and are as follows:

a. Average per capita flow, including infiltration 150 gal/day

b. Peak flow factor	4.0
c. Number of people per house	4
d. Future population	1356
e. Kutter's Formula	
f. "n" value for pipe	0.013
g. Minimum velocity	2.00 f.p.s.
h. Maximum velocity	15.00 f.p.s.
i. Minimum pipe size - mainline	8" diameter
j. Minimum pipe size - house connections	
k. Minimum slope - 4" pipe	0.02 ft./ft.
l. Minimum slope - 8"	0.004 ft/ft.
m. Minimum slope - 10"	0.0028 ft/ft.
n. Minimum cover over pipe	4.0 ft.

The design, including contract specifications and plans, will be prepared by a Consulting Engineer. The construction work for the sewerage system will be awarded to the lowest responsible bidder. The program will provide approximately 26,500 lineal feet of 8" minimum diameter sewer pipe and service laterals from the street sewer to the house property line or when the sewer pipe is laid in an easement a service lateral of length adequate and proper to provide for a house connection. A minimum of three connections to the Westchester County Saw Mill Trunk Sewer Line will be required.

The estimated cost of the sewer system construction will not exceed \$1,750,000.00. This estimate includes all contingency expenses such as engineering, legal, bonding and temporary financing. It is proposed to finance the project cost by benefit formula over a forty year period at the most favorable interest rate.

The debt will be amortized by adopting a benefit assessment roll, subject to the approval of the Department of Audit & Control, for the owners of the properties. The benefit assessment formula will provide equitable means for serving vacant property as well as improved property. An annual maintenance and service charge will be prorated fairly among the property owners. The maintenance and service charge will reflect a fair charge for this expense.

As set forth in the Petition of which this report is a part of, separate formulae will be prepared and submitted so that the charges will not pose an undue burden upon the property owners within the district.

No engineering or construction difficulties appear to exist in this improvement program.

Respectfully submitted,

OSCAR R. SOYLAND
TOWN ENGINEER

TSTC# NY-269

TRI-STATE TRANSPORTATION COMMISSION **Attachment 7(a)**
(METROPOLITAN CLEARINGHOUSE)

DATE RECEIVED 8/17
TSTC REVIEW DUE 8/27
END OF REVIEW 9/17

REGIONAL
NONREGIONAL

AMOUNT: Total \$ _____ Federal \$ _____

FEDERAL FUNDING AGENCY _____

NAME OF APPLICANT TOWN OF NEW CASTLE

LOCATION " " " ", Westchester Co.

FUNCTIONAL CATEGORY

- AIRPORT
- EDUCATION
- HIGHWAY
- HEALTH AND HOSPITAL
- HOUSING
- LAW ENFORCEMENT FACILITIES
- MASS TRANSIT
- OPEN SPACE & RECREATION
- SEWER SYSTEMS
- URBAN PLANNING ASSISTANCE-701
- WASTE TREATMENT WORKS
- WATER DEVELOPMENT AND LAND CONSERVATION
- WATER SUPPLY & DISTRIBUTION
- OTHER (Specify) _____

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NOTE: All original applications and other material sent to the functional reviewer should be forwarded to central files upon completion of review.

DATE: August 13, 1971

TSTC#NY-269

AUG 17 1971

TO: OPS Review Section - R. Bersowitz
 Metropolitan District Office, OPS - H. Quinn
 Capital District Office, OPS
 Central District Office, OPS
 Western District Office, OPS
 Metropolitan/Regional Clearinghouse: R. Storch ✓
 PMS File

FROM: NYS Planning and Development Clearinghouse

SUBJECT: A-95 PNRS Letter of Intent
Project No: 003211 Agency Action Date Sept. 2, 1971
Location (T) New Castle
Acquire Turner Swamp
Westchester County
Recreation

The attached Letter of Intent has been referred to State Agencies in accordance with State Clearinghouse procedures. These agencies will have an opportunity to express an interest in this project up to the first business day after the "Agency Act Date" indicated above.

for NYS P&D Clearinghouse

Attachment

TJH:ms

cc: A-95 File

- - - - -
D-660-1 PROJECT PLAN AND JUSTIFICATION

The area which it is proposed to acquire is a 35 plus acre swamp owned for many years by a local family and now remaining after residential development of the surrounding higher land.

It provides a highly suitable conservation area for use as a managed wildlife area, where a varied wildlife population already exists and needs only to be encouraged.

The market for building sites has risen to a level which threatens the continued openness of this area. Development would require a high standard of foundation and septic system engineering to provide safe, and pollution-free housing development here, yet, even such economic extras do not discourage developers today. It would also increase the run-off from what is now a local water retention basin.

This swamp now contains a variety of swamp vegetation, including sedges, duck weed, cattails and fragmites. From one end of the property a rocky, wooded (oak, red maple, birch, dogwood) peninsula extends a few hundred feet into the swamp, thus providing a natural observation point surrounded by water and swamp wildlife.

Nesting waterfowl observed there include great blue heron, bittern, virginia rail and various ducks. There are also pheasants, and migrating warblers and other birds to be seen. Foxes, raccoons, muskrats and turtles are present. A local naturalist has also identified six varieties of salamander, characterized as a unique situation in the Northern United States for this reptile.

The project, simply stated, is to acquire the fee of this open and accessible parcel for swampland in order to preserve and encourage its wildlife. The water outlet now existing is narrow and present rock dam can easily and inexpensively be replaced by a

ACQUISITION & DEVELOPMENT OF TURNER SWAMP PROPERTY - D-660-1 (Page 2)

more permanent structure with a weir and means to raise the water level by 6" to 12" for encouragement of more waterfowl nesting. Natural trails along the sides, accessible from two roads, and on the rocky peninsula mentioned above would complete the necessary development work.

At the south end of the swamp is a 1.5 acre parcel owned by School District No. 4, occupied by a two-room building recently, but no longer, used as a kindergarten. The building is in reasonable repair and would be quite suitable as a nature study center, for which purpose it is proposed to make a lease contract with the School District.

Two parcels occupying 1100 feet of frontage on Hardscrabble Road and totalling 2.6 acres may become available in the future and would be an ideal addition to the conservation area, for which it is not expected that matching funds would be needed.

Attached hereto is a survey of parcel to be acquired. [Retained by State Clearinghouse]

Cost: 110,000 Acquisition
5,000 Development
1/2 Federal, 1/2 other

***RESOLUTION NO. 96 - REGIONAL REVIEW OF FEDERAL GRANT REQUESTS IN THE TRI-STATE REGION**

WHEREAS, the Commission adopted Resolution No. 30 on April 20, 1967 to implement the provisions of Section 204 under Title II of the Demonstration Cities and Metropolitan Development Act of 1966; and

WHEREAS, the Federal Bureau of the Budget has issued new procedures enlarging upon the functional areas for review as well as implementing certain provisions of the Intergovernmental Cooperation Act of 1968, and established a project notification process in addition to the Section 204 review system; and

WHEREAS, the Bureau of the Budget's Circular further designates Tri-State as a metropolitan (regional) clearinghouse in the processing of applications for federal aid;

NOW, THEREFORE, BE IT RESOLVED, that the following general policy with regard to regional planning, project notification and project review in the Tri-State Region is adopted:

1. The Tri-State Transportation Commission will continue to act as the official regional planning agency for the Tri-State Region;
2. In addition to being the Section 204 areawide review agency, the Commission will also act as the metropolitan (regional) clearinghouse to review all applications for federal aid for all functional categories designated by the Bureau of the Budget;
3. To meet the intent of Congress, as reflected in the Demonstration Cities and Metropolitan Development Act of 1966 and the Intergovernmental Cooperation Act of 1968, the three State Review Coordinators, as appointed by their respective Governors, will continue to function as agents of the Commission in reviewing applications and proposals for federal assistance by governmental agencies within the Tri-State Region. The three State Review Coordinators will establish procedures for carrying-out this review process and such procedures will be subject to approval by the Commission;

4. The Commission fully recognizes the role of the planning programs of the state, county and planning regions, and it is the intent of the Commission that Tri-State's planning program will be fully coordinated with these programs;
5. The Commission will work in cooperation with each state and other levels of government in the development of standards, guidelines, criteria and other necessary definitions to assure that this project review process is carried forward smoothly and without creating unnecessary delays, while at the same time assuring consistency with regionwide development plans.

With the following results: carried unanimously. 11/13/69

TA-14

*RESOLUTION NO. 125 - REGIONAL AND LOCAL REVIEW OF FEDERAL GRANT REQUESTS IN THE TRI-STATE REGION

WHEREAS, Resolution No. 96, adopted by the Commission on November 13, 1969, states the general policy with regard to regional planning, project notification and project review in the Tri-State Region; and

WHEREAS, it is now desirable to amend the general policy to provide for more expeditious review of project notifications of a nonregional significance;

NOW, THEREFORE, BE IT RESOLVED, that the additional policy effecting local review is adopted:

- 1) The Tri-State Transportation Commission, as the metropolitan clearinghouse, in reviewing the intent to file an application for federal aid, shall determine whether the project notification is of regional or nonregional significance;
- 2) When a project notification is determined to be nonregional it will be distributed to the appropriate county or regional planning agency for review;
- 3) The county or regional planning agency with its concurrence, is hereby delegated the authority to act for Tri-State in completing the project review and in notifying the applicant as to the effect of the project on local plans. Copies of all such project review reports shall be filed with the Commission.

With the following result: carried unanimously. 11/19/70

TA-15

TRI-STATE TRANSPORTATION COMMISSION
FEDERAL AID PROJECT REVIEW SYSTEM

CRITERIA FOR DEFINING REGIONAL PROJECTS

I. OBJECTIVE OF THE REVIEW PROCESS

To determine whether a project is consistent with regional objectives as defined by the Regional Development Guide and/or by particular functional area plans.

This requires that criteria be developed by which it is possible to determine, prior to review, which projects are of regional significance.

II. CRITERIA SELECTION AND APPLICATION

A. Criteria Selection

1. Criteria should be defined in such a way that they are applicable to different functional areas, thus ensuring consistent definition of regional projects.
2. Criteria should be precisely defined such that their application by different individuals will lead to the same conclusions as to what is regional.

B. Criteria Application

1. Criteria must be interpreted in specific terms for each functional area.
2. Criteria should be applied by the individual functional specialists.
3. Criteria should be applied such that if a project satisfies one criterion, it is considered regional.

III. CRITERIA FOR DEFINING REGIONAL PROJECTS

The following four criteria are selected as a basis for defining regional projects.

A. Regional System/Regional Plan Criterion

If a project constitutes as element, or part of an element, specified in a plan for a regional system, it is a regional project.

B. External Impact Criterion

Some public investment projects have external impacts, either immediate or long-run, on other functions. Some of these external impacts are of regional significance.

External impacts may take one of two forms:

1. Direct physical, social or economic consequences.

2. A potential for socially beneficial cooperation or coordination.

There are three situations in which regionally significant external impacts arise:

1. Inter-Jurisdictional Situations - where a project proposed within one jurisdiction (county, MCD, special district) has an impact on an adjacent jurisdiction.
2. Inter-Functional Situations - where a project proposed for one functional area has an impact on another functional area, regardless of jurisdiction.
3. Intra-Functional Situations - where a project proposed for a functional area has an impact on an actual or proposed regional facility within the same functional area.

C. Size/Cost Criterion

A project is regional if it is more than a certain physical size and/or costs more than a certain amount. The size/cost figures must be separately determined for each functional area.

D. Demonstration Project Criterion

All demonstration projects are regional because of their potential for widespread application.

IV. APPLICATION OF CRITERIA TO FUNCTIONAL AREAS

The above criteria may be applied to individual functional areas by defining certain characteristics of each function in terms of the criteria.

The Demonstration Project Criterion is considered to apply to all functional areas.

A. Highways

1. Regional System/Regional Plan Criterion

- a. All construction projects for facilities proposed in the Regional Highway Plan.
- b. All other expressway construction projects.
- c. All other "principal arterial" construction projects.
- d. Other arterial construction if the project involves upgrading to principal arterial standards.

2. External Impact Criterion

Inter-Functional Impacts

All expressway/arterial construction projects affecting regional parks, reservoirs and airports.

Intra-Functional Impacts

- a. Arterial construction if the project involves an interchange with a freeway or expressway.
- b. Arterial construction in an expressway corridor.

3. Size/Cost Criterion

- a. All arterial construction projects involving provision of more than 4 lanes.
- b. All arterial projects involving an expenditure of more than \$2 million per mile.

B. Open Space

1. Regional System/Regional Plan Criterion

All projects involving sites designated in the recreation plan.

2. External Impact Criterion

Inter-Functional Impacts

All projects involving sites which have multiple uses, such as water supply, historical, cultural, and scientific sites.

Intra-Functional Impacts

All projects involving extensions of existing regional open space sites.

3. Size/Cost Criterion

All sites of 50 acres or more, or costing over \$250,000.

C. Sewer & Water

1. Regional System/Regional Plan Criterion

All projects affecting proposals made in the regional plan.

2. External Impact Criterion

Inter-Jurisdictional Impacts

- a. Water - all projects relating to sources of supply, treatment and transmission.
- b. Sewer - all projects relating to trunk sewers and sewage treatment.
- c. Sewage collection systems involving inter-jurisdictional cooperation.

D. Airports

1. Regional System/Regional Plan Criterion

All public-use airports are regional.

An individual project within a public-use airport must be determined to be regional on the basis of other criteria.

2. External Impact Criterion

Inter-Jurisdictional Impacts

Projects which involve land acquisition outside the existing airport boundaries.

Inter-Functional Impacts

Projects which produce effects beyond the boundaries of an airport, e.g., noise or higher level of service.

Intra-Functional Impacts

Projects which affect the capacity and/or type of use of an airport.

E. Transit

1. Regional System/Regional Plan Criterion

All projects relating to proposals contained in the regional plan.

2. External Impact Criterion

Inter-Jurisdictional Impacts

Projects which affect the quantity or quality of travel service on inter-jurisdictional routes.

Inter-Functional Impacts

Projects which involve inter-connections with other modes.

Intra-Functional Impacts

Projects which affect the operations of other transit facilities.

F. Health

3. External Impact Criterion

Inter-Jurisdictional Impacts

All projects involving health care capacity, quality, or range of service which will be used by people from outside the jurisdiction in which the project will be located.

4. Size/Cost

Projects involving the provision of 400 or more hospital beds.

G. Air Pollution/Solid Waste

The only funds available are for planning and demonstration projects, both of which are considered regional.



CONNECTICUT

NEW JERSEY

NEW YORK

ATTACHMENT "A"

TRI-STATE REGIONAL PLANNING COMMISSION

100 CHURCH STREET, NEW YORK, N. Y. 10007

TELEPHONE (212) 433-4200

FEDERAL AID PROJECT REVIEW SYSTEM

In accordance with the provisions of Section 204 of Public Law 89-754, the Demonstration Cities and Metropolitan Development Act of 1966, and Title IV of Public Law 90-577, the Intergovernmental Cooperation Act of 1968, and Section 102(2)(c) of the National Environmental Policy Act of 1969, as interpreted by the Federal Office of Management and Budget Circular A-95, dated February 9, 1971, all applications for federal aid for specific federal programs must be reviewed to assure conformance with the comprehensive plans of the Region.

It is the intent of Circular A-95 to insure coordination of development planning on an intergovernmental basis. To achieve this, applicants for federal aid must notify the appropriate state and areawide clearinghouse of their intent to apply for federal aid before developing detailed applications for federal approval.

In the Tri-State Region, the Tri-State Regional Planning Commission has been designated as the "areawide" Metropolitan Clearinghouse. The state planning offices of the three states have been designated as the state clearinghouses in Connecticut, New Jersey and New York (see Attachment "A" for correct addresses).

The provisions of Circular A-95 were effective October 1, 1969. Under this circular, procedures were established requiring that all applicants for federal aid submit a "project notification" to the appropriate clearinghouses for review and comment. This "project notification" is an "early warning" that the applicant intends to file a "project application" for federal aid. It supplements the review of a "project application" under the provisions of Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966.

For practical purposes, a "project notification" and a "project application" follow the same process. When a "project notification" is submitted by an applicant for review and comment, the reviewing agencies have 30 days to respond (15 days for housing notifications). Then the applicant may submit the formal "project application" to the federal agency. However, in the review process it is possible that problems may arise where projects conflict with other plans and projects, or may not be in conformance with the comprehensive plans for the Region. In this event, or should an applicant substantially modify the proposed project as outlined in the "project notification", then further review is required as under Section 204.

Under the provisions of Circular A-95, the state clearinghouses are responsible for the review by state agencies of all proposed projects for federal aid. The Tri-State Regional Planning Commission, as the Metropolitan Clearinghouse, is responsible for reviews by regional, subregional and local planning agencies. Tri-State, under the provisions of Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, is also responsible for the review of "applications" for all federal aid.

This includes applications by federal and state agencies, as well as regional, subregional (counties and planning regions) and local applicants.

To enable the applicants within the Region to obtain early review of proposed projects, this set of procedures is promulgated for review by the Metropolitan Clearinghouse within the Tri-State Region. (State clearinghouses may issue separate procedures.)

- a) In Connecticut, the regional planning agencies will work directly with Tri-State in obtaining the reviews and disseminating information to localities (see Attachments "B" and "C").
- b) In New Jersey and New York, the county planning agencies and the New York City Planning Commission will work directly with Tri-State in obtaining reviews from local agencies and in disseminating information on reviews (see Attachments "B" and "C").

This set of procedures is considered to have general applicability for all "project notifications" and "project applications". As each federal agency issues a set of procedures, they will be handled individually.

PROCEDURES FOR PROJECT NOTIFICATION AND REVIEW

Definitions

- a) Applicant - any entity applying for federal aid under the programs listed in Attachment "D", whether it be a private institution or an agency of federal, state, county or local government.
- b) Metropolitan "Areawide" Clearinghouse - an official interstate agency empowered under interstate compact to perform comprehensive planning, including an organization of the type referred to in Section 701(g) of the Housing Act of 1954, as amended. Planning and development clearinghouses, such as Tri-State, are those recognized by the Office of Management and Budget as an appropriate agency to perform review functions under Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966.
- c) Project Notification - a letter of intent to file an application for federal aid for one of the federal programs shown in Attachment "D", and including the information listed in Attachment "E".
- d) Comments - a comment from a reviewing agency may include adverse comments or conflicts with existing or proposed projects or plans. A comment might be in support of the proposed project or even provide additional information of value to the applicant.
- e) Review - a project review is the review of a proposed project to determine whether it is consistent with comprehensive planning. A review is not intended to be a vehicle to merely voice objection or support, but should indicate the reason for conflict or conformity to local, subregional, state and regional planning. The format of a review may take the form as used by Tri-State or it may be in letter form.
- f) Response to Applicant - a letter from Tri-State (or the designated subregional planning agency in the case of projects of nonregional significance) advising the applicant of the agencies that have expressed interest in a proposed project, and the nature of the interest when it is known. This response serves as the clearance for the applicant to proceed with the application.

- g) Meetings and/or Consultations - a meeting may be arranged by Tri-State for discussion of projects of major regional significance where an issue or conflict may exist. A meeting may be arranged by a county or regional planning agency to discuss projects of local interest. Generally, it is the applicant's responsibility to arrange for a meeting or consultation to resolve any problems.
- h) Review Period - the date that the review period starts is the one on which the clearinghouse receives the project notification from the applicant. Should the project notification have insufficient information to make a review, then the review period stops until such information is received from the applicant. The review period also stops when Tri-State is advised of a problem or conflict, and in this case the project review is considered to be in the indeterminate stage. The review period is 30 calendar days for all functional categories except "housing", for which the review period is 15 days.
- i) Indeterminate Stage - the stage in the process in which a project is placed when a reviewing activity raises a question, possible conflict or other interest.

Procedure

1. Potential applicant makes inquiries of federal agencies.
2. Federal agency informs applicant he must notify both the state and metropolitan clearinghouses (CH's) of his intent to file an application for federal aid.
3. Tri-State will advise the applicant to file with his "project notification" all the information shown on Attachment "E".
4. Tri-State will immediately determine whether a proposed project has regional or nonregional significance.
5. Tri-State will refer the project notification to the county or regional planning agency and the New York City Planning Commission for review and for further dissemination to localities for their review and comments.
6. Tri-State's staff will review all regional projects while the counties and regional planning agencies and the New York City Planning Commission will review the nonregional projects, as well as regional projects. At this step, the counties and regional planning agencies will act as Tri-State's "agent" for all nonregional projects.

7. In each instance, the county, regional planning agency and the New York City Planning Commission will advise Tri-State as soon as possible - usually within 10 calendar days - of interest or other problems on regional projects by using the post card shown as Attachment "F".

8. a) Projects of Regional Significance

Tri-State will prepare a letter to the applicant advising that the review procedure has been carried out in accordance with the law, and copies of all comments will be attached. A copy of this letter, along with each agency's letter and review comment if any, will be forwarded to all agencies concerned. Note - all reviews from localities to counties and from counties to Tri-State must be in writing. The counties will always forward to Tri-State the original copy of the letters from the local reviewing agencies.

b) Projects of Nonregional Significance

The county or regional planning agencies and the New York City Planning Commission will act as Tri-State's "agent" in advising the applicant that the review procedures have been carried out by sending a letter to the applicant. A copy of this letter, along with local reviews, will also be forwarded to Tri-State.

9. Meetings may be arranged, if necessary, to discuss comments or conflicts, and in this instance, each county planning agency will be in charge.

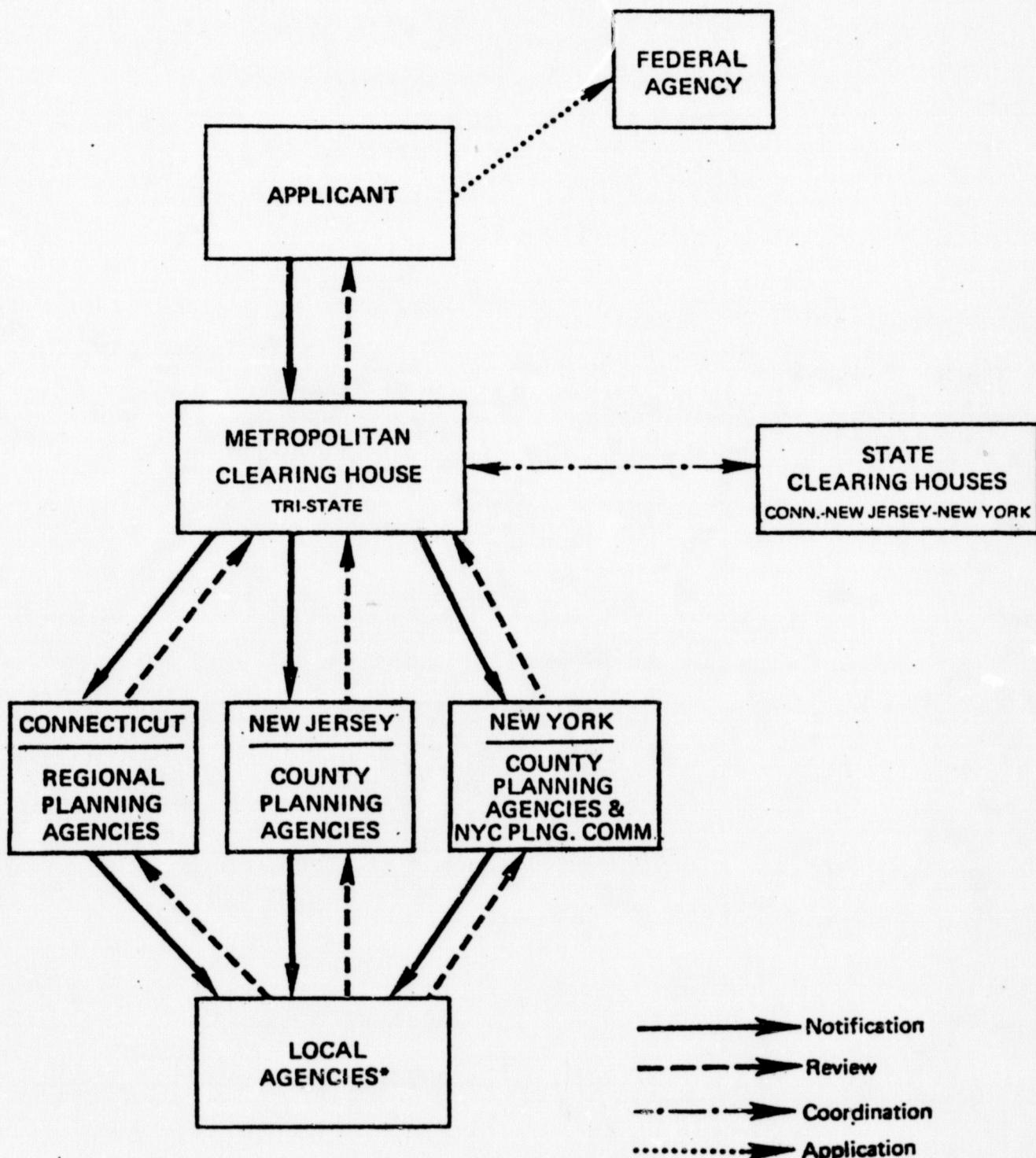
10. If the issues cannot be resolved, further negotiation is at the discretion of the appropriate federal agency in their final consideration of the application for federal aid.

(Any inquiries or problems on the review procedures should be directed to Mr. Robert P. Storseth, Director of Management and Finance, or Mr. Gerhart A. Dunkel, PNRS Coordinator.)

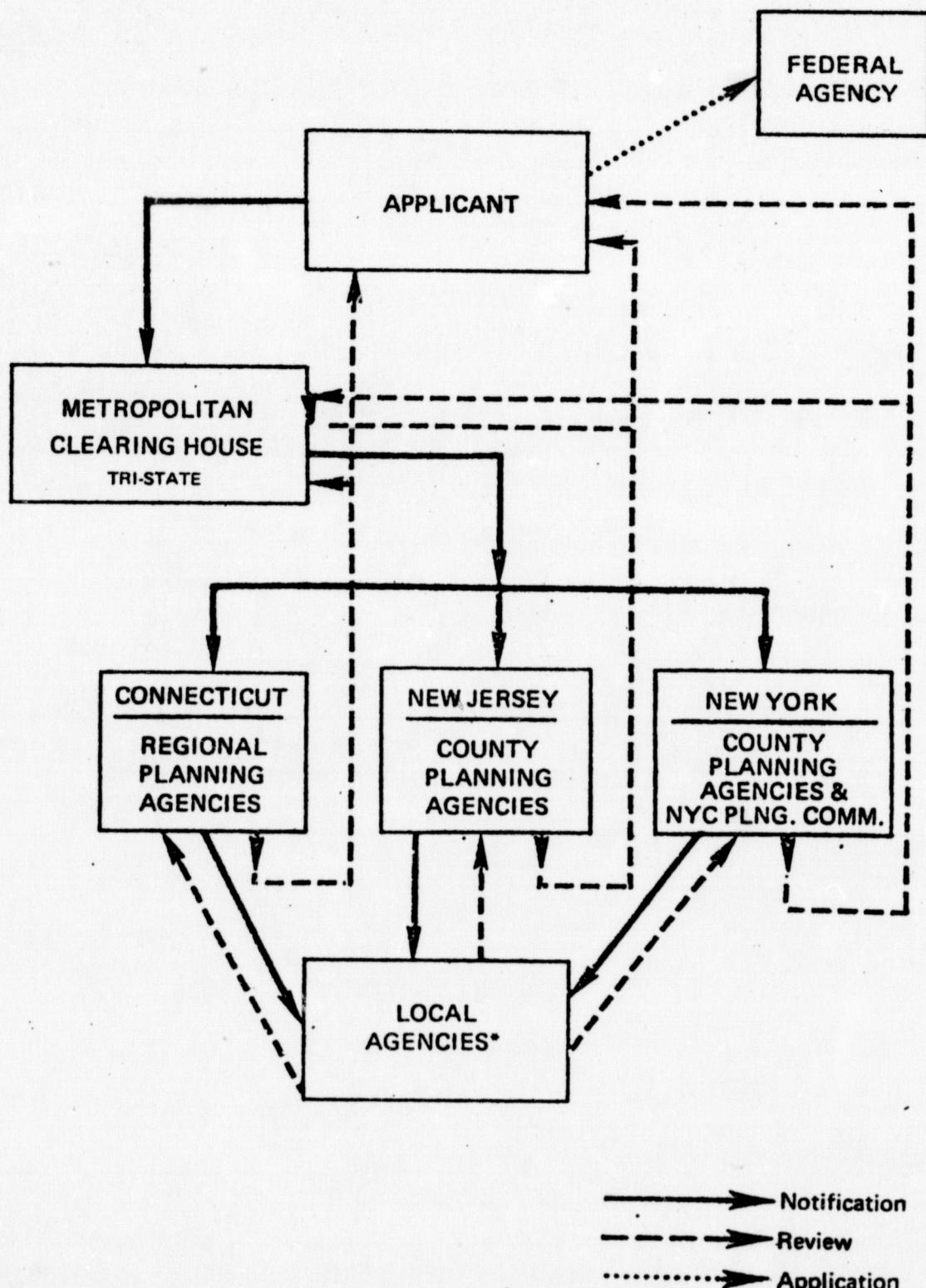
TRI-STATE REGIONAL PLANNING COMMISSION

FEDERAL AID PROJECT REVIEW SYSTEM

PROJECTS OF REGIONAL SIGNIFICANCE



TRI-STATE REGIONAL PLANNING COMMISSION
FEDERAL AID PROJECT REVIEW SYSTEM
 PROJECTS OF NON-REGIONAL SIGNIFICANCE



August 4, 1971

Mr. Peter Q. Eschweiler, Commissioner
Westchester County Department of
Planning
910 County Office Building
White Plains, New York 10601

Re: PMS - Sewerage Facilities & Waste Treatment [NY-262]
Hamlet of Chappaqua, Westchester Co., N.Y.
TOWN OF NEW CASTLE

Dear Mr. Eschweiler:

In keeping with the Commission's Resolution No. 125, and as outlined in our letter of February 26th making March 15, 1971 the effective date for delegating the authority to the Counties and Regional Planning Agencies to act for the Tri-State Regional Planning Commission on federal aid project notifications of nonregional significance, it has been determined that the above captioned project falls into this category.

It will be appreciated if you will proceed with the appropriate review, obtaining reviews from interested localities, and then sending a letter to the applicant in the name of Tri-State with a copy to this office.

Thank you for your cooperation.

Sincerely,

Robert P. Storseth, Director
Management and Finance

RPS/jr

enc.

cc: T. McDonald
J. Reed Jr.
R. Deturk
K. Richmond

PQE

December 28, 1971

Mr. Oscar R. Scyland, P.E.
New Castle Town Engineer
Town Hall
200 South Greeley Avenue
Chappaqua, New York 10514

Re: PNRS-NY-262 - King Greeley Sewer District
New Castle - Chappaqua

Dear Mr. Scyland:

At your request, the Westchester County Department of Planning has reviewed the proposed King-Greeley Sewer District in the Town of New Castle in the hamlet of Chappaqua, and is pleased to submit to you this letter giving our evaluation of its priority.

We find that this proposed sewer district, which will be funded in part by Federal aid from the Department of Housing and Urban Development, is a local sewer improvement of the highest priority, and one which should receive every favorable consideration for Federal aid. The proposed sewer service area is in a location identified on the Urban Form Map of the Westchester County Department of Planning, which constitutes the county-wide land use planning element under HUD certification procedures, as "high density" urban, and the extension of sewer service into this area is therefore fully consistent with our county-wide land use element recommendations.

The area into which the sewer is proposed to be extended is almost entirely developed with existing residential and business uses. The pattern of development in this area is firmly established, and the extension of sewers into the service area will greatly improve the environmental and public health aspects of this central area of your town. Unlike many areas of northern Westchester, the establishment of sewers in the King-Greeley Sewer District area will not alter, or offer the opportunity to alter, the range of densities proposed for residential development, since the area is already substantially developed with single-family homes that are of good quality and have a considerable period of useful life remaining. The proposed extension of the sewer service into this area will, however, alleviate a worsening situation of dependence upon individual septic tanks for the disposal of sanitary wastes, a very desirable aspect.

Mr. Oscar R. Soyland, P.E.
New Castle Town Engineer

December 28, 1971
Page 2

We fully endorse your application for the proposed extension of the sewer district, and consider it to be one of the highest priority projects of its type in Westchester County. We believe it warrants full Federal support in terms of financial aid, and we will be pleased to give you any further assistance in obtaining such aid that you may require.

Very truly yours,

Peter Q. Eschweiler
Commissioner

PQE:n2

September 10, 1971

Mr. Peter Q. Eschweiler, Commissioner
Westchester County Department of
Planning
910 County Office Building
White Plains, New York 10601

To: PIAS - Open Space & Recreation [LY-269]
~~New Castle, Westchester Co.~~
~~TOWN OF NEW CASTLE~~

Dear Mr. Eschweiler:

In keeping with the Commission's resolution No. 125, and as outlined in our letter of February 26th making March 15, 1971 the effective date for delegating the authority to the Counties and Regional Planning Agencies to act for the Tri-State Regional Planning Commission on federal aid project notifications of nonregional significance, it has been determined that the above captioned project falls into this category.

It will be appreciated if you will proceed with the appropriate review, obtaining reviews from interested localities, and then sending a letter to the applicant in the name of Tri-State with a copy to this office.

Thank you for your cooperation.

Sincerely,

Robert P. Sterseth, Director
Management and Finance

PPS/jr
enc.
cc: T. McDonald
J. Seyland
R. Deture
F. Levy

TA-31

WESTCHESTER COUNTY PLANNING BOARD

EDWARD FLEAGLE CHAIRMAN	YONKERS	WILLIAM N. CASSELLA, JR.	DOBBS FERRY
P. M. FREEMAN	BEDFORD	VICE CHAIRMAN	
EDWARD M. GIBBS	PEEKSKILL	EDWARD J. MORTOLA	NEW ROCHELLE
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WARREN T. LINDQUIST	NORTH CASTLE	MRS. THOMAS M. WALLER	BEDFORD
ROBERT A. DENNISON COMMR. OF PUBLIC WORKS	EX OFFICIO	CHARLES E. POUND	EX OFFICIO
		COMMR. OF PARKS, RECREATION & CONSERVATION	
		WILLIAM G. BORGHARD	EX OFFICIO
		COMMR. OF ENVIRONMENTAL FACILITIES	

WESTCHESTER COUNTY DEPARTMENT OF PLANNING

PETER Q. ESCHWEILER, A.I.P.
COMMISSIONER
JOSEPH R. POTENZA, A.I.P.
DEPUTY COMMISSIONER

810 COUNTY OFFICE BUILDING WHITE PLAINS, N. Y. 10601 814 WHITE PLAINS 9-1300

October 1, 1971

OCT 5 - 1971

Oscar R. Soylard
Town Engineer
Town of New Castle
410 King Street
Chappaqua, New York 10514

RE: PNR3 - Open Space and Recreation (NY-269)
New Castle, Westchester County
TOWN OF NEW CASTLE

Dear Mr. Soylard:

This refers to your project notification requesting federal aid under the federal program noted. Your notification has been circulated to the appropriate sub-regional planning agencies and municipalities for comment. The Tri-State Regional Planning Commission has classified the project as one of non-regional significance. The County Planning Board has been delegated authority by Tri-State, as the Metropolitan Clearinghouse to respond to the applicant. The following represents the views of our Department with regards to this project.

The acquisition and provision of access to the swamp area as proposed is in accordance with the open space policy of both the Town and the County. Development of this site, which is a strong possibility if the land is not acquired by the Town, would cause an increase in the magnitude of the storm water run off which is currently a problem in the Chappaqua area. More importantly, this 35 acre parcel constitutes a valuable wild life area which we understand maybe made available to the local school district for nature study purposes.

Since this area is on the fringe of a rapidly urbanizing corridor, the acquisition of this land by the Town now and its maintenance as a preserve will serve to provide an area of contrast and relief from the surrounding urbanizing area. This is one of the major recommendations found in the County's urban form concepts plan, and is thus consistent with County land used policies.

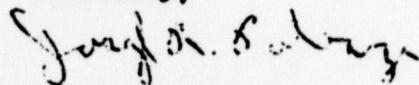
Oscar R. Soyland
October 1, 1971
Page 2

In the event you should substantially change the application by submitting a request different from the proposal in your project notification, then it will be necessary for you to resubmit the application to this office for review. Otherwise you are clear to proceed with your formal application to the federal government, subject to similar clearance by the State Clearing-house.

This letter does not release the applicant from compliance with federal regulations regarding the application nor state laws requiring licenses, permits or approval by the state agency charged with the administration of the program.

Thank you for your cooperation and assistance.

Sincerely,



Joseph R. Potenza
Deputy Commissioner

JMP:bb

cc: Mr. Robert Storeseth, Director of Finances
Tri-State Regional Planning Commission

U.S. COURT OF APPEALS:SECOND CIRCUIT

EVANS, et al.
Plaintiffs-Appellants
against
LYNN, et al.,
Defendants-Appellees.

Index No.

Affidavit of Service by Mail

STATE OF NEW YORK, COUNTY OF NEW YORK

ss.:

I, Laurel N. Huggins,

being duly sworn,

deposes and says that deponent is not a party to the action, is over 18 years of age and resides at

1050 Carroll Place, Bronx, New York

That upon the 13th day of August 1974, deponent served the annexed Appellee's

Brief

upon *

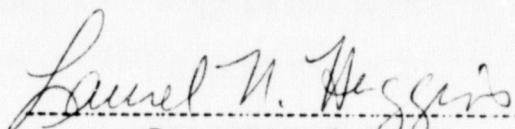
attorney(s) for

*

in this action, at *

2 its

the address designated by said attorney(s) for that purpose by depositing a true copy of same, enclosed in a postpaid properly addressed wrapper in a Post Office Official Depository under the exclusive care and custody of the United States Post Office Department, within the State of New York.

Sworn to before me, this 13th
day of ~~August~~ 1974
August
Print name beneath signature

LAUREL N. HUGGINS

ROBERT T. BRIN
NOTARY PUBLIC, STATE OF NEW YORK
NO. 31 - 0418950
QUALIFIED IN NEW YORK COUNTY
COMMISSION EXPIRES MARCH 30, 1975

* Richard F. Bellman-Attorney for Appellant Suburban Action Institute-57 Tuckahoe Rd., Yonkers, N.Y. 10710

Golenbock & Barell-Attorneys for Town of New Castle and King-Greeley Sewer Dist.-
60 E. 42nd Street, New York, N.Y. 10017.

V. Pamela Davis, Assnt. Atty U.S. Attorney-Attorney for Federal Defendants-U.S.
Courthouse, Foley Sq., New York 10007.